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c 98 Costs of Distress Act

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CHAPTER 98

Costs of Distress Act

1. No person making distress for rent or for a penalty and no person employed in making the distress, or doing any act in the course of the distress, or for carrying the distress into effect, shall levy, take or receive any costs in respect of the distress other than those prescribed by the Lieutenant Governor in Council. R.S.O. 1970, c. 92, s.1. Tariff of costs

2. No person making a seizure or sale of goods for default in payment of the principal money or interest secured by a chattel mortgage or for default in payment of an instalment of principal or interest secured by an instrument under the terms of which the vendor retains the right to take possession of a chattel sold by him for default in payment of an instalment of principal or interest shall levy, take or receive any greater or other fees or costs than those prescribed by the Lieutenant Governor in Council. R.S.O. 1970, c. 92, s. 2. Tariff of costs under chattel mortgage

3. No costs shall be levied, taken or received for or in respect of exempted goods when they may not be lawfully sold, and, when sold, no greater sum in all than \$2 and actual and necessary payments for possession money shall be levied, taken or received for or in respect of costs and expenses of sale of such exempted goods. R.S.O. 1970, c. 92, s. 3. Costs in respect of seizure of exempted goods

4. No person shall make any charge for anything for which the Lieutenant Governor in Council has prescribed a fee under this Act unless it has been actually done. R.S.O. 1970, c. 92, s. 4. No charge for anything not done

5. No person aggrieved by a seizure or sale of goods under a chattel mortgage or by a distress for rent or for default in payment of an instalment of principal or interest secured by an instrument under the terms of which the vendor retains the right to take possession of a chattel sold by him for default in payment of an instalment of principal or interest shall be barred from any action or remedy that he would have had if this Act had not been passed. R.S.O. 1970, c. 92, s. 5. Right of action not affected

6.—(1) A person who makes a distress shall give a statement in writing signed by him of the demand and of the Furnishing statement of demand and costs

costs and expenses of the distress to the person on whose goods the distress was made and a person who makes a seizure under a chattel mortgage or for default in payment of an instalment of principal or interest secured by an instrument under the terms of which the vendor retains the right to take possession of a chattel sold by him for default in payment of an instalment of principal or interest shall give to the person in possession of the goods seized a statement in writing signed by him of the demand and of the costs charged in respect of the seizure and subsequent proceedings.

**Taxation of
costs of
distress**

(2) The person whose goods are distrained or seized or the person authorizing the distress or seizure or any other person interested, upon giving two days notice in writing, may have the costs and expenses of the bailiff or other person making the distress or seizure taxed by the clerk of the county or district court of the county or district in which the distress or seizure was made.

**Furnishing
bill of costs
to clerk for
taxation**

(3) The bailiff or person making the distress or seizure shall furnish the clerk with a statement of his costs and expenses for taxation at the time mentioned in the notice or at such other time as the clerk directs, and, in default of his so doing, he is not entitled to any costs or expenses.

**Duty of
clerk on
taxation**

(4) Upon the taxation the clerk shall, among other things, consider the reasonableness of any charges for removal and keeping possession of the goods, and for advertising, or any sums alleged to have been paid therefor, and may examine either party on oath touching the same, and the person requiring the taxation shall pay the clerk a fee of 25 cents therefor.

Appeal

(5) An appeal may be made from such taxation to a judge of the county or district court. R.S.O. 1970, c. 92, s. 6.

**Fees and
costs**

7. The Lieutenant Governor in Council may prescribe fees and costs payable to persons performing the services mentioned in sections 1 and 2. R.S.O. 1970, c. 92, s. 7.